

General Information Letter: In computing base income, no deduction is allowed to individual for theft loss taken as an itemized deduction for federal income tax purposes.

April 5, 1999

Dear:

This is in response to your letter dated March 30, 1999, in which you request a letter ruling. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter you have stated the following:

Near the end of xxxx I discovered that I had been embezzled and eventually extorted by an individual named xxxxxxxxxxxxxxxxx, xxxxxxxxxxxxxxxxx, driver's license #xxxxxxxxxxxxxx. Upon this discovery, I contacted the xxxxxx County Sheriff's Police and filed a report on xxxxxxxx, specifically report # xxxxxxxxxxxx. The police concluded that xxxxxxxxxxxx had been scamming me and living on my money.

I recently conferred with the IRS as to how to handle the embezzlement for tax purposes, and they advised that I could use Form 4684, Casualties and Thefts, to deduct income that passed directly to xxxxxxxxxxxx. After figuring reimbursements, the embezzlement amount totals \$xxxxxxx. I doubt that xxxxxxxxxxxx will report this income.

My question to you is whether I can deduct the embezzlement amount on Line 9 of the Illinois Income Tax Return.

Response

Computation of Illinois taxable income for individuals begins with an individual's "adjusted gross income" computed and reported for federal income tax purposes under the provisions of the Internal Revenue Code. See Sections 203(a)(1) and 203(e)(1) of the Illinois Income Tax Act (the "IITA", 35 ILCS 5/101 et. seq.), copies of which have been enclosed for your review. An individual's adjusted gross income is then increased and/ or reduced after application of certain addition and subtraction modifications specified by statute. See Section 203(a)(2) of the IITA. The list of specific deductions in Section 203(a)(2)(E)-(W) is intended to be exhaustive of all deductions allowable in computing Illinois taxable income. See Section 203(h) of the IITA. Therefore, an otherwise allowable deduction for federal income tax purposes will not be allowed as a deduction for Illinois income tax purposes unless specifically listed as such under Section 203(a)(2) of the IITA.

A loss arising from theft is not a listed deduction under Section 203(a)(2)(E)-(W) of the IITA and thus is not allowable as a subtraction modification to an individual's adjusted gross income. Consequently, an individual in computing the individual's Illinois taxable income recognizes no benefit of an income adjustment for theft loss. However, an individual suffering theft loss of property used in a trade or business and reporting such loss at the federal level on Form 4684 will derive some initial benefit from the theft loss when filing an Illinois income tax return because the individual's federal adjusted gross

income, the starting point for computation of Illinois taxable income, will have been computed taking into account the theft loss for federal income tax purposes. See 1998 IRS Tax Forms 1040 and 4684.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Jackson Donley
Senior Counsel -- Income Tax